

Message Text

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67

ACTION OES-06

INFO OCT-01 EUR-12 EA-07 NEA-10 ISO-00 SSO-00 NSCE-00

INRE-00 USIE-00 CIAE-00 DODE-00 PM-04 H-02 INR-07

L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 EB-07

DLOS-06 CG-00 DOTE-00 TRSE-00 COME-00 SAL-01 /090 W

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O P 011559Z DEC 76

FM AMEMBASSY MADRID

TO SECSTATE WASHDC IMMEDIATE 8153

USMISSION EC BRUSSELS IMMEDIATE

INFO AMEMBASSY BERLIN PRIORITY

AMEMBASSY BONN PRIORITY

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FROM US DEL ICNAF

OES/OFA FOR BUSBY

E.O. 11652: N/A

TAGS: EFIS, EC, ICNAF, XN, US, PLOS

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SUBJECT: US/EC GOVERNING INTERNATIONAL FISHERY AGREEMENT (GIFA)

REF: EC BRUSSELS 11456

1. SUMMARY: UNLESS DEPT. ADVISES USEC TO CONTRARY, USEC IS REQUESTED TO PROVIDE FOLLOWING TO EC COMMISSION: US PREPARED TO SEND GIFA DEL TO BRUSSELS DECEMBER 13-14 TO CONSULT FURTHER WITH USEC AND EC STAFF IN ATTEMPT TO REDUCE DIFFERENCES IN US/EC DRAFT GIFA. FYI THE OUTCOME WILL DETERMINE WHETHER THE US AND EC WILL HAVE BY DECEMBER 31 AN AGREEMENT WHICH COULD BE SIGNED. IF US VIEWS ON GIFA ARE ACCEPTABLE TO EC, FORMAL NEGOTIATIONS COULD BE UNDERTAKEN WITH VIEW TOWARD AGREEMENT ON FINAL TEXT. AT CONCLUSION OF NEGOTIATION US AND EC COULD DETERMINE DATE FOR SIGNATURE. U.S. WONDERS WHETHER EC ABLE TO DEVOTE ITSELF FULLY TO US TALKS ON ABOVE DATES, AS WE HAVE BEEN INFORMED THAT EC HAS SCHEDULED CONSULTATIONS WITH SPAIN ON 13 AND 14 DECEMBER AND CANADIANS ON 15TH. END FYI. IF EC WISHES TO COMMENT ON US VIEWS PRIOR TO DECEMBER 12 WE ARE PREPARED TO CONSIDER THEIR COMMENTS DURING ICNAF MEETING AND RESPOND BY CABLE. END SUMMARY.

2. FOR USEC USEC IN DISCUSSION WITH EC FOLLOWING ARE U.S. COMMENTS ON BRACKETED US/EC GIFA:

3. PREAMBLE; ARTICLE I; AND ARTICLE II, PARA 1); LANGUAGE IN THESE PORTIONS OF GIFA IS INTER-RELATED OFFERING SEVERAL OPTIONS ACCEPTABLE TO U.S. IN EFFORT TO RESOLVE CURRENT DIFFERENCES: US WOULD BE WILLING TO SUBSTITUTE ORIGINAL PARA 3 OF PREAMBLE OF DRAFT GIFA WITH QUOTE ACKNOWLEDGING THE FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES AS SET FORTH IN THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976; UNQUOTE AND TO DROP U.S. LANGUAGE BRACKETED BY EC IN ARTICLE II, PARA I (I.E., THROUGHOUT THEIR MIGRATORY RANGE) SO LONG AS EC AGREES TO INCLUSION OF QUOTE AS PROVIDE IN U.S. LAW UNQUOTE AT THE END OF ARTICLE I. HOWEVER, IF EC INSISTS ON DROPPING LANGUAGE AT END OF ARTICLE I, U.S. MUST INSIST ON RETAINING REFERENCES TO U.S. MANAGEMENT LIMITED OFFICIAL USE

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AUTHORITY OVER ANADROMOUS SPECIES THROUGHOUT THEIR MIGRATORY RANGE IN PREAMBLE AND ARTICLE II AS ORIGINALLY PROPOSED BY U.S. AND CANNOT ACCEPT EC FOOTNOTE ON ITS INTERPRETATION SIMILARLY, FOOTNOTE (1) TO PREAMBLE RE OPTIMUM UTILIZATION UNACCEPTABLE.

4. ARTICLE II, PARA T: U.S. COULD AGREE TO DELETION OF BRACKETED LANGUAGE.

5. ARTICLE III, PARA 1: EC LANGUAGE QUOTE
SHALL GRANT UNQUOTE IS UNACCEPTABLE. AS AN ALTERNA-
TIVE, U.S. WOULD BE WILLING TO DELETE THIS ENTIRE
PARA.

6. ARTICLE III, PARA 2) (D): ALTHOUGH AS
PRACTICAL MATTER U.S. WILL CONSULT WITH EC ON
AVAILABLE ALLOCATIONS, WORDING PROPOSED BY EC IS
UNACCEPTABLE. THE EC HAS OPPORTUNITY TO CONSULT
WITH U.S. RE-ALLOCATIONS OR OTHER MATTERS UNDER
ARTICLE XII AND ANNEX 1, PARA 4.

7. ARTICLE II, PARA 4): LANGUAGE PROPOSED BY EC
IS UNACCEPTABLE ON GROUNDS U.S. CANNOT GIVE A
COMMITMENT TO FOREIGN COUNTRIES ON EITHER 1) A
GUARANTEED FISHERY OR 2) THE ECONOMIC IMPACT OF U.S.
MANAGEMENT MEASURES ON FOREIGN FLEET OPERATIONS.

8. ARTICLE VI: U.S. LAW STATES PERMIT FEES
WILL BE REASONABLE AND NON-DISCRIMINATORY. PERMIT
FEES CLEARLY MAY COVER COSTS BEYOND THOSE CORRESPOND-
ING TO ADMINISTRATIVE SERVICES, THUS EC PROPOSAL
NOT ACCEPTABLE. FYI THE LEVEL OF PERMIT FEES IS
LIKELY TO BE 4 TO 5 PERCENT OF VALUE OF THE ALLOCATION.
END FYI.

9. ARTICLE VII BIS: U.S. INSISTS ON ITS
LANGUAGE OF ARTICLE VII BIS, WITH ADDITIONAL LANGUAGE
AT END OF ARTICLE QUOTE AS DETERMINED THROUGH CONSULTA-
TION BETWEEN THE U.S. AND THE COMMUNITY UNQUOTE. WITH
ADDITION OF THIS REQUIREMENT FOR CONSULTATION, U.S.
WOULD AGREE TO OMIT RELATED AGREED MINUTE ON SALMON
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PROPOSED BY U.S.

10. ARTICLE VIII, PARA 3: EC PROPOSAL TO DELETE
BRACKETED LANGUAGE NOT ACCEPTABLE SINCE UNDER U.S.
LAW, THE USG SHALL BE REIMBURSED FOR THE COST OF
OBSERVERS. FYI WE EXPECT THESE COSTS TO BE SMALL IN
COMPARISON TO THE PERMIT FEES. END FYI.

11. ARTICLE VIII, PARA 5: THE ADDITIONAL
LANGUAGE NOTED IN BRACKETS IS NECESSARY AS A RESULT
OF VIEWS EXPRESSED BY CONGRESS ON U.S.-GOP GIFA.
U.S. CANNOT ACCEPT A COMMITMENT IN EITHER THE AGREE-
MENT OR AGREED MINUTE ON RECIPROCITY AS PROPOSED
BY EC IN FOOTNOTE.

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FROM US DEL ICNAF

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12. ARTICLE X, PARA 1: THE USG WILL IMPOSE

ANY APPROPRIATE PENALTIES IN ACCORDANCE WITH ITS

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LAWS ONLY.

13. ARTICLE X, PARA 2: U.S. WOULD BE WILLING
TO DROP BRACKETED LANGUAGE QUOTE AS DETERMINED BY
THE COURT UNQUOTE.

14. ARTICLE XI. U.S. BELIEVES OPENING SENTENCE
REPRESENTS DRAFTING PROBLEM ONLY AND WOULD PROPOSE
LANGUAGE TO THE EFFECT THAT THE COMMUNITY WILL QUOTE
REINFORCE EXISTING COOPERATION UNQUOTE ETC. ANNEX II,
REFERRED TO IN THE FINAL SENTENCE, FOLLOWS ICNAF DATA
COLLECTION AND REPORTING PROCEDURES AND SEEMS
APPROPRIATE IN U.S. VIEW FOR INCLUSION IN THE GIFA
AS HAS BEEN THE CASE IN OTHER GIFAS (E.G., GDR,
GOP, USSR, GOR, AND ROC).

15. ARTICLE XII, PARA 2: U.S. CANNOT AGREE
BILATERALLY TO ARBITRATION OF FISHERY DISPUTES WITHIN
AREA OF EXCLUSIVE U.S. FISHERY JURISDICTION.

16. ARTICLE XIII: IN RESPONSE TO QUESTIONS
RAISED BY THE EC, EXCHANGE OF CREWS IN U.S. PORTS
IS PERMISSIBLE UNDER U.S. LAW; THE TRANSFER OF
CATCH IS NOT ALLOWED.

17. ARTICLE XIV: DEPT. FAVORS U.S. VERSION OF
ARTICLE. IF PRESSED, U.S. WOULD BE WILLING TO
ACCEPT PARA 1 OF EC PROPOSAL SO LONG AS QUOTE AND
ON TERMS NOT MORE RESTRICTIVE THAN THOSE ESTABLISHED
IN ACCORDANCE WITH THIS AGREEMENT UNQUOTE IS INSERTED
FOLLOWING THE WORDS QUOTE IN ACCORDANCE WITH THE
PROVISIONS OF THE COMMON FISHERIES POLICY UNQUOTE
CONTAINED IN PRESENT EC VERSION. IN NO CASE IS
PARA 2 PROPOSED BY EC ACCEPTABLE. UNDER U.S. LAW
AN ALLOCATION TO A FOREIGN GOVERNMENT MAY BE MADE
BY U.S. ONLY WHEN THERE IS A SURPLUS.

18. ARTICLE XV: U.S. UNDERSTANDS COMMISSION'S
PROBLEM IN U.S. VERSION OF ARTICLE AND CAN AGREE TO
COUNTER LANGUAGE PROPOSED BY EC SO LONG AS LAW OF THE
SEA IS NOT CAPITALIZED.

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19. ARTICLE XVI: U.S. MUST INSIST ON U.S.

FORMULATION OF THIS ARTICLE, BUT IS WILLING TO
REPLACE JULY 1, 1982 WITH JULY 1, 1984.

20. AGREED MINUTES: U.S. PROPOSES TO INCLUDE
SUBSTANCE OF MINUTE PROVIDED GALLAGHER AT PRIVATE
SESSION (I.E.,...DUE TO REDUCED STOCK CONDITIONS
OFF THE U.S., ONLY THOSE MEMBER STATES OF THE
COMMUNITY HAVING A TRADITIONAL FISHERY MAY EXPECT TO
QUALIFY TO RECEIVE A PORTION OF ANY SURPLUS AVAILABLE
FOR FOREIGN FISHING IN THE FORESEEABLE FUTURE.)

21. COMMENT: EC COUNCIL RESOLUTION WAS FORMALLY
DELIVERED TO DEPT. NOVEMBER 17 BY AMBASSADOR OF
NETHERLANDS. U.S. HAS NOT YET RESPONDED. IN THE
MEANTIME U.S. HAS CONSULTED WITH U.S. SHRIMP
FISHERMEN OFF FRENCH GUIANA. ON THE BASIS OF CON-
SULTATIONS, WE CONSIDER GIFA SHOULD BE CONSIDERED
AS AN AGREEMENT FOR FISHING ONLY OFF THE U.S. THE
U.S. IS LOOKING TOWARD A SEPARATE AGREEMENT CONCERN-
ING ZONES OF THE EC AND IS PREPARED TO ENTER INTO
NEGOTIATIONS. MISSION REQUESTED TO ASK EC IF IT
HAS A NEGOTIATING DATE RE CONTINUATION OF U.S.
FRENCH GUIANA FISHERY. PRELIMINARY INDICATIONS
ARE THAT U.S. SHRIMP FISHERMEN OFF FRENCH GUIANA
ARE NOT OVERLY CONCERNED BY EC RESOLUTION AND COULD
SHIFT OPERATIONS INVOLVING ABOUT 34 VESSELS TO OTHER
AREAS IN THE GUIANAS. THEY NOTED IF EC MOVED TO
ELIMINATE U.S. FISHERY OFF FRENCH GUIANA ON
JANUARY 1, EC COULD EXPECT SOME BACKLASH FROM LOCAL
GUIANANS WHO OPERATE PROCESSING PLANT FOR U.S. CAUGHT
SHRIMP. U.S. CHECKING ON OTHER POSSIBLE IMPACTS ON
U.S. IN GUADELOUPE, MARTINIQUE AND REUNION PRIOR TO
RESPONDING TO NOTE. WE DOUBT, HOWEVER, THAT IMPACT
IS GREAT. PENDING CONCLUSION OF NEGOTIATIONS BETWEEN
THE U.S. AND EC. U.S. EXPECTS THAT THE EC WILL NOT REPEAT WILL NOT
ENFORCE THEIR JURISDICTION ON THE U.S. USEC RE-
QUESTED TO CONFIRM THIS AT SUCH TIME AS YOU REVIEW
SITUATION CONCERNING SECOND OR SEPARATE BILATERAL
WITH EC SO U.S. CAN ADVISE ITS FISHERMEN. END COMMENT.
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22. US TECHNICAL TEAM FOR EC TALKS WILL
INCLUDE L. SNEAD, OES/OFA, MARY LIB HOINKES, L/OES,
AND ALAN RYAN, NMFS. TEAM PLANS ARRIVE BRUSSELS
SUNDAY, DECEMBER 12 AND MEET DECEMBER 13 AND 14 WITH
EC. REQUEST MISSION TO RESERVE SINGLES FOR HOINKES
AND RYAN AND DOUBLE FOR SNEAD. TEAM WOULD PLAN TO
MEET WITH MISSION SUNDAY EVENING OR MONDAY MORNING.
ETA WILL BE SENT SEPTEL. MISSION REQUESTED INFO

MADRID, ATTENTION AMBASSADOR RIDGWAY, US ICNAF DEL
WITH EC RESPONSE TO U.S.'S COMMENTS ON DRAFT TEXT AND
ASSESSMENT OF ANTICIPATED EC POSITION FOR SUBJECT
NEGOTIATIONS. STABLER

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